

Supreme Court U.S.  
**FILED**

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IN THE  
SUPREME COURT OF THE UNITED STATES  
OCTOBER TERM, 1977

MICHAEL RODAK, JR., CLERK

NO. 77-1422

N. H. NEWMAN,  
JERRY LEE PUGH, WORLEY JAMES, et al.,

Petitioners,

v.

STATE OF ALABAMA  
JUDSON C. LOCKE, JR., GEORGE C. WALLACE, et al.,

Respondents.

**BRIEF FOR RESPONDENTS  
IN RESPONSE TO THE CONDITIONAL  
CROSS-PETITION FOR A WRIT OF CERTIORARI**

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Petitioners have filed a conditional cross-petition for a writ of certiorari to review that part of the judgment of the United States Court of Appeals for the Fifth Circuit which modified the District Court's equitable relief, but only if the Court grants the petition filed by the Respondents herein in State of Alabama, et al. v. Jerry Lee Pugh, et al.

No. 77-1107.

Respondents do not agree that the Court of Appeals erred in the manner complained of by Petitioners. However, in the event review is granted of the first question presented in No. 77-1107, Respondents--The State of Alabama; the Alabama Board of Corrections; Judson Locke, Jr., individually and in his official capacity as Commissioner of the Alabama Board of Corrections; Bill Long, individually; J. O. Davis, individually and as warden of G.K. Fountain Correctional Center; Reverend John E. Vickers, Dr. Thomas F. Staton, and Dr. Marion L. Carroll, Jr., individually and as members of the Alabama Board of Corrections; J. Louis Wilkinson and W. F. Hamner, as members of the Alabama Board of Corrections; the Attorney General of Alabama; and the warden, hospital administrator, business manager, and all hospital staff of Kilby Corrections Facility (formerly Medical and Diagnostic Center, Mt. Meigs, Alabama)--would not oppose the simultaneous granting of Petitioner's cross-petition seeking a review of the modifications which the Fifth Circuit did make in the remedial

order issued by the District Court. Those standards and requirements which were disapproved by the Court of Appeals further illustrate the District Court's departure from its judicial role in fashioning its relief and in undertaking the administration of the State's prison system, and both the petition and cross-petition seek to have this Court consider whether any limitations exist upon a federal court's power to order prison reforms when conditions of confinement in State prisons are found to violate the Eighth Amendment. Otherwise, these Respondents oppose the cross-petition.

Petitioners do not seek review of the action of the Court of Appeals in ordering the District Court to dissolve its injunction against Respondent George C. Wallace and those members of the Board of Corrections and other prison officials no longer in office. Therefore, those Respondents--George C. Wallace, individually and in his official capacity as Governor of Alabama, M. B. Harding, H. Couch, Yetta G. Sanford, Jr., Dr. Max V.

McLaughlin, and Thomas E. Bradford, Sr., individually--oppose the granting of the cross-petition as to them in view of the fact that they are not petitioners in No. 77-1107 and their inclusion as parties to the cross-petition is neither necessary nor appropriate under the circumstances.

Respectfully submitted,

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